

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:05CV63 CDP
)	
B&D ELECTRIC, INC., et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Defendants in this case seek an amendment of the Case Management Order to require the plaintiff to supplement its Rule 26 disclosures to provide more information before formal discovery begins. I agree with defendants that this is not a standard CERCLA case, because the government has already entered into consent decrees that provided for recovery of many of its costs. Plaintiff seeks to recover response costs which are not covered by the prior settlements, although it has not specified what those costs are and why they are not covered. Under the particular circumstances of this case, I do not believe that this complies with plaintiff's obligation under Rule 26(a)(1)(C), and I will require further supplementation.

This complex case can be made considerably simpler if plaintiff would simply tell everyone what it is seeking and why these items were not covered by the previous settlements. Requiring the government to provide this information up front

is entirely reasonable under the circumstances, and will greatly reduce the expense and delay of this action. Defendants should not be required to search for a needle in a haystack and speculate about the government's claims in order to defend themselves.

Accordingly,


IT IS HEREBY ORDERED that defendants' motion to Amend Case Management Order [#83] is granted in part, and plaintiff shall produce, no later than **June 1, 2006** a detailed cost report showing a breakdown of the \$6.5 million sought by the plaintiff, which breakdown must include a description of each item, activity, or expense sought, including a reference to the documents supporting each item (in a form that will enable defendants to locate the relevant documents from those already produced), and an explanation for how the costs are not covered by the prior consent decrees related to the MEW site.

IT IS FURTHER ORDERED that the deadline for completing mediation is extended until **July 1, 2006**.

IT IS FURTHER ORDERED that discovery is **not** stayed, because I want this case to continue expeditiously, and I believe that compliance with this order will shorten, rather than lengthen the time needed to complete discovery. I will consider any reasonable requests for extensions of discovery response times on a case by

case basis. Any request must include a statement of opposing counsel's position on the request. **All other provisions of the Amended Case Management Order remain in full force and effect, including plaintiff's upcoming obligations regarding disclosure of expert witnesses and expert witness reports.**

IT IS HEREBY ORDERED that plaintiff's motions to excuse National Wrecking and Sara Lee from mediation [#88, 89] are granted.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of May, 2006.